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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No. 467 of 2021

1. Murtidas Panika, S/o. Shri Meladas Panika, aged about 35 years, Caste Panika R/o. Village Gidhouri, Police Station Ratanpur, District Bilaspur (C.G.).
2. Ratandas, S/o. Shri Nohar Das, aged about 39 years, R/o. Village Kadari, Beltara, District Bilaspur (C.G.).
3. Johandas Manikpuri, S/o. Shri Saukhi Das, aged about 32 years, R/o. Ward No. 1, Village Khanda, P.S. Seepat, District- Bilaspur (C.G.).
4. Ramkrishna Manikpuri, S/o Shri Mela Das, aged about 17 years, through natural guardian father Shri Mela Das R/o. Village Gidhouri Jali, Police Station Ratanpur, District- Bilaspur (C.G.).
5. Santoshi Bai, W/o Murtidas Panika, aged about 32 years, Caste Panika R/o Village Gidhouri, Police Station Ratanpur, District- Bilaspur (C.G.).

---- Petitioners

Versus

1. State of Chhattisgarh, through the Secretary, Department of Home, Secretary, Department of Home Secretariat, Mahanadi Bhawan, Atal Nagar, P.S. and Post Rakhi, District Raipur (C.G.).
2. Collector, Korba, District Korba (C.G.).
3. Director General of Police (DGP), Police Headquarters, Mahanadi Bhawan, Atal Nagar, P.S. & Post Rakhi, District Raipur (C.G.).
4. Inspector General of Police, Nehru Nagar, Bilaspur- Range, District Bilaspur (C.G.).
5. Superintendent of Police, Office of the Superintendent of Police, Korba, District Korba (C.G.).
6. Station House Officer, Police Station Darri, District- Korba (C.G.).
7. Bheem Prasad Sahu, S/o. Late Bhoovan Prasad Sahu, aged about non known, R/o Near Durga Mandir, Darri Irrigation Chowk, Darri, District Korba (C.G.).
8. Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba (C.G.) through its President Urmila Sahu, wife of Shravan Kumar Sahu, aged about not known, Ward No. 43, Darri District Korba (C.G.).
9. Baby Tofadar, Member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba (C.G.).
10. Mamta Jha, Member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba (C.G.).
11. Farida, Member, Jai Durga Mahila Samooh, Ward No. 43 Darri,

District Korba (C.G.).

12. Karuna, Member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba (C.G.).
13. Sarita Sahu, Member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba (C.G.).
14. Chunmu, Member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba (C.G.).
15. Puja Sahu, W/o. Addhu Sahu member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District Korba.
16. Arti Sahu, W/o. Nakur Sahu, Member, Jai Durga Mahila Samooh, Ward No. 43, Darri, District- Korba (C.G.).
17. Sajjan Agrawal, owner of Sajan Kirana Shop, Darri, In front of Police Station Darri, Korba, District Korba (C.G.).

---- Respondents

For Petitioners	: Mr. Lavkush Kumar Sahu, Advocate.
For State	: Mr. Rakesh Sahu, Dy. G. A.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

23.07.2021

1. The petitioners have has filed this writ petition under Article 226 of the Constitution of India for issuance of appropriate direction to the respondent No. 5 – Superintendent of Police, Korba for initiating enquiry and for taking action on the applicant filed by them on 27.05.2021 and also register the FIR against the culprits/respondents No. 7 to 17, if found them guilty of the offence.
2. The brief facts as projected by the petitioners are that respondent Nos. 7 to 17 have looted the house-hold articles i.e. gas cylinder, stove, TVS Access motorcycle and a suitcase, in which gold and silver jewelery amounting to Rs. 48,000/- was kept and also broken drawer and taken away the cash of Rs. 1,50,000/-, which petitioner has recovered from his customers. Respondent Nos. 7 to 17 have also taken away grossery, Almiras and utensils. The respondent No. 17 also robbed on the

pretext that petitioner No. 1 has taken loan of Rs. 40,000 from him, whereas per the knowledge of the petitioner No. 1, he has taken only Rs. 4,600/-. On 20.7.2081, the petitioners went to Police Station for lodging the written complaint against respondent Nos. 7 to 17 for committing Marpeet and loot and threatening against the petitioners. The petitioners have again submitted an application before the Superintendent of Police, Korba on 27.05.2021 with a copy to Collector narrating all the factual factum of the offence committed by respondent Nos. 7 to 17 but no action has been taken on the complaint made by the petitioners.

3. On above factual matrix the petitioner has prayed for following relief:

“10.1. That this Hon'ble Court may kindly be pleased to allow the petition.

10.2 That the Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus directing the State/respondents authorities particularly the respondent No. 5 S. P. Korba to initiate enquiry and take action on the application of petitioners submitted on 27.5.2021 (Annexure P/8) in a fair manner and further be pleased to register FIR against the culprits/respondent NO. 7 to 17 if found them guilty of the offence.

10.3 That this Hon'ble Court may kindly further be pleased to grant compensation ofr the loss of Rs. 4.00 lakhs from the respondent No. 7 to 17 against their committing robbery/loot of household articles, ornament, groceries and cash amount.

10.4 That the Hon'ble Court be pleased to grant any other relief or direction which this Hon/ble Court deems fit in the facts and circumstances of the case, in the interest of justice.”

4. From perusal of reliefs sought, it is quite clear that the petitioner wants that on the basis of complaint, FIR should be registered against respondents No. 7 to 17.
5. The Hon'ble Supreme Court in case of **Sakiri Vasu Vs. State of Uttar Pradesh & others**¹, has examined the issue holding that

¹ (2008) 2 SCC 409

the petitioner has remedy of filing of complaint before the concerned Judicial Magistrate First Class under Section 200 of the Cr.P.C. The Supreme Court has again considered and decided the issue in ***Sudhir Bhaskarrao Tambe v. Hemant Yashwant Dhage***² and ***M. Subramaniam & another Vs. S. Janaki & another***³.

6. Considering the facts and materials on record and in light of the law laid down by Hon'ble the Supreme Court in the above referred judgments, the present writ petition filed under Article 226 of the Constitution of India, is disposed of with liberty to the petitioner to file complaint under Section 200 of the Cr.P.C. before the court of Judicial Magistrate First Class having jurisdiction over the place of offence and in-turn Magistrate will follow the procedure prescribed under the provisions of the Cr.P.C.
7. It is made clear that this Court has not expressed any opinion on merits of the case whether the complaint discloses any criminal offence or not.
8. In view of the above, the instant writ petition is disposed of with the aforesaid liberty granted in favour of the petitioner.

Sd/-

(Narendra Kumar Vyas)
Judge

Amita

² (2016) 6 SCC 277

³ (2020) 16 SCC 728